

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

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| Applicant(s): Lavian  |                      |
| Application No.: 09/522332  | Group Art Unit: 2143 |
| Filed: 03/09/2000   |                      |
| Title: Method and Apparatus for Accessing Network Information On Network Device | Examiner: Boutah     |
| Attorney Docket No.: 120-467  |                      |
| Chief Administrative Patent Judge<br>P.O. Box 1450<br>Alexandria, VA 22313-1450 |                      |

PETITION UNDER §41.3

Dear Sir:

This petition concerns a Notice of Non-Compliant Appeal Brief dated August 23, 2007.

The submissions leading up to that notice are as follows:

(1) an After Final Amendment was submitted on January 17, 2007, in which claims 1, 11, 22, 31 and 32 were amended;

(2) an Advisory Action was issued on April 4, 2007, in which the Examiner indicated that the After Final Amendment would be entered for purposes of Appeal. The Examiner also indicated that a new search would be required because the claim amendments raised new issues that would require consideration and search;

(3) a Notice of Appeal and Appeal Brief were filed on April 10, 2007. The Appeal Brief lists the claims as shown in the After Final Amendment. The alleged need for further consideration and search is one of the issues being appealed; and

(4) a Notice of Non-compliant Brief was issued on August 23, 2007. The basis of the Notice is that the listing of claims is inaccurate because the AF Amendment filed January 17, 2007 was not entered.

Petitioner submits that the basis of the Notice of Non-compliant Brief is erroneous for at least two reasons. First, the Advisory Action dated April 4, 2007 states that the amendment will be entered for the purposes of appeal. Petitioner has now appealed. Therefore, the AF Amendment must be entered, and the brief contains a correct copy of the claims. Second, even if the Examiner is permitted to withdraw the statement that the AF Amendment will be entered for purposes of appeal, the refusal to enter the AF Amendment on the grounds that a new search would be required is one of the issues being appealed. In particular, the alleged need for a new search is being appealed because the limitation at issue was present in the claims as originally filed, and therefore should have been searched and considered already.

For the reasons stated above, Petitioner requests the Chief Administrative Patent Judge to direct the Examiner to enter the AF Amendment and cause the appeal process to proceed with the Appeal Brief as originally filed.

Respectfully Submitted,

September 18, 2007  
Date

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